

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Ken Peterson, on February 15, 2011 at 8:00 AM, in Room 137  
Capitol

#### ROLL CALL

**Members Present:**

Rep. Ken Peterson, Chairman (R)  
Rep. Krayton Kerns, Vice Chairman (R)  
Rep. Diane Sands, Vice Chairman (D)  
Rep. Liz Bangerter (R)  
Rep. Robyn Driscoll (D)  
Rep. Kris Hansen (R)  
Rep. Ellie Boldman Hill (D)  
Rep. David Howard (R)  
Rep. Cleve J. Loney (R)  
Rep. Margaret (Margie) MacDonald (D)  
Rep. Mike Menahan (D)  
Rep. Michael (Mike) More (R)  
Rep. Jesse O'Hara (R)  
Rep. Carolyn Pease-Lopez (D)  
Rep. Joe Read (R)  
Rep. Dan Skattum (R)  
Rep. Bob Wagner (R)  
Rep. Wendy Warburton (R)

**Members Excused:** Rep. Bill Harris (R)  
Rep. Keith Regier (R)

**Members Absent:** None

**Staff Present:** Karen Armstrong, Committee Secretary  
David Niss, Legislative Branch

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: HB 425, 2/7/2011; HB 442, 2/9/2011; HB 480, 2/11/2011;  
HB 492, 2/11/2011

Executive Action: HB 274, HB 299, HB 321, HB 382, HB 412, HB 425, HB 438,  
HB 442, HB 480, HB 490, HB 492

**HEARING ON HB 442**

**Opening Statement by Sponsor:**

00:00:28 Rep. Mike Phillips (D), HD 66, opened the hearing on HB 442, Revise concealed  
weapon permit.

00:01:34 Rep. Regier arrived.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:**

00:04:24 Jim Smith, Montana Sheriffs' and Peace Officers' Association

**Questions from Committee Members and Responses:**

00:05:44 Rep. Regier

00:06:19 Rep. Wagner

**Closing by Sponsor:**

00:07:05 Rep. Phillips

**HEARING ON HB 480**

**Opening Statement by Sponsor:**

00:08:55 Rep. Mike Menahan (D), HD 82, opened the hearing on HB 480, Revise laws  
relating to justice's court.

**EXHIBIT(juh37a01)**

00:09:50 Rep. Howard exited.

00:16:17 Rep. Howard returned.

**Proponents' Testimony:**

00:18:07 Mary Phippen, Montana Magistrates Association

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:19:16 Rep. Wagner

00:19:35 Rep. Driscoll exited.  
00:19:42 Rep. Menahan

**Closing by Sponsor:**

00:22:14 Rep. Menahan

00:23:18 Rep. Driscoll returned  
00:23:21 Rep. Peterson exited.  
00:23:24 Vice Chairman Kerns assumed the chairmanship.

**HEARING ON HB 492**

**Opening Statement by Sponsor:**

00:23:31 Rep. David Howard (R), HD 60, opened the hearing on HB 492, Prohibit immigration sanctuary policies by local governments.

**Proponents' Testimony:**

00:28:03 Harris Himes, Montana Eagle Forum  
00:28:47 Paul Nachman, self  
00:33:21 Chairman Peterson returned  
00:33:59 Roger Hagan, American Legion  
00:34:53 Rep. Hansen exited.

**Opponents' Testimony:**

00:35:16 Shahid Haque-Hausrath, Helena attorney  
00:36:44 Rep. Hansen returned.  
00:42:00 Niki Zupanic, American Civil Liberties Union, Montana (ACLU)  
00:43:40 Sarah Rossi, Montana Coalition Against Domestic and Sexual Violence  
00:44:42 Kim Abbott, Montana Human Rights Network

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

00:46:07 Rep. Howard

**HEARING ON HB 425**

**Opening Statement by Sponsor:**

00:46:22 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 425, Revise offer of settlement.

[EXHIBIT\(juh37a02\)](#)

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:55:15 Rep. Menahan  
00:55:34 Rep. Warburton exited.  
00:56:53 Chairman Peterson  
00:57:18 Rep. Regier returned.

**Closing by Sponsor:**

00:50:25 Chairman Peterson  
  
01:05:13 Meeting recessed until 9:20.  
01:19:43 Meeting resumed with Rep. Skattum, Rep. Bangerter, Rep. Hill, Rep. Harris, and Rep. O'Hara absent.

**EXECUTIVE ACTION ON HB 274**

01:20:08 **Motion:** Rep. Howard moved that **HB 274 DO PASS.**  
  
01:20:27 Rep. MacDonald  
01:20:58 Rep. Howard  
01:22:04 Chairman Peterson  
01:22:09 Rep. MacDonald  
01:22:24 Rep. Hill returned.  
01:22:49 Rep. Bangerter returned.  
01:23:01 Rep. O'Hara returned.  
01:24:01 Rep. Sands  
01:24:27 Rep. Skattum returned.  
01:26:30 Rep. Howard  
01:26:32 Rep. Harris returned.  
01:26:36 Rep. MacDonald  
01:27:04 Rep. Howard  
01:27:28 Rep. MacDonald  
01:28:49 Rep. Driscoll  
  
01:29:42 **Vote:** Motion failed 9-11 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. Howard, Rep. Loney, Rep. More, Rep. O'Hara, Rep. Peterson, Rep. Read and Rep. Regier voting aye. Rep. Harris voted by proxy.  
  
01:31:20 **Motion/Vote:** Rep. Kerns moved that **HB 274 BE TABLED AND THE VOTE REVERSED.** Motion carried 19-0 by voice vote. Rep. Harris was absent and did not vote.

**EXECUTIVE ACTION ON HB 299**

01:31:31 **Motion:** Rep. Hansen moved that **HB 299 DO PASS.**

**Discussion:**

01:33:05 Mr. Niss

01:33:29 Rep. Hansen  
01:33:54 Mr. Niss  
01:33:59 Rep. Hansen  
01:39:56 Rep. Driscoll  
01:40:18 Rep. Hansen  
01:40:45 Rep. Regier  
01:41:18 Rep. Hansen  
01:42:16 Rep. Regier  
01:42:22 Rep. Hansen  
01:43:21 Rep. Regier  
01:43:37 Chairman Peterson  
01:43:46 Rep. Hansen  
01:43:50 Rep. Sands  
01:44:29 Rep. Menahan  
01:45:20 Rep. Skattum  
01:45:30 Rep. Hansen  
01:45:51 Rep. Howard  
01:47:13 Rep. Wagner  
01:48:23 Rep. Loney  
01:48:44 Rep. Bangerter  
01:49:14 Rep. Menahan

01:51:28 **Vote:** Motion carried 12-8 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. Kerns, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson, Rep. Skattum and Rep. Warburton voting no.

#### **EXECUTIVE ACTION ON HB 412**

01:53:16 **Motion:** Rep. Harris moved that **HB 412 DO PASS.**

01:55:02 Chairman Peterson  
01:56:01 Rep. More  
01:56:25 Without objection, executive action was delayed pending amendments.

#### **EXECUTIVE ACTION ON HB 425**

01:57:00 **Motion:** Rep. K. Peterson moved that **HB 425 DO PASS.**

01:57:22 Rep. Hansen  
01:58:28 Chairman Peterson  
01:59:25 Rep. Hansen  
01:59:53 Rep. Kerns  
02:00:54 Rep. Hansen  
02:01:44 Rep. Menahan  
02:02:51 Chairman Peterson  
02:03:37 Without objection, executive action was delayed.  
02:03:57 Chairman Peterson

**EXECUTIVE ACTION ON HB 412**

02:04:12 **Motion:** Rep. Kerns moved that **HB 412 DO PASS.**

02:04:22 **Motion:** Rep. K. Peterson moved that **HB 412 BE AMENDED.**  
**EXHIBIT(juh37a03)**

**Discussion:**

02:05:23 Rep. Harris

02:05:35 **Vote:** Motion carried unanimously by voice vote.

02:05:48 **Motion:** Rep. Kerns moved that **HB 412 DO PASS AS AMENDED.**

02:05:57 **Motion:** Rep. More moved that **HB 412 BE AMENDED.**  
**EXHIBIT(juh37a04)**

**Discussion:**

02:06:23 Rep. Harris  
02:06:51 Chairman Peterson  
02:07:20 Rep. Harris  
02:07:25 Rep. Warburton  
02:07:53 Chairman Peterson  
02:08:11 Rep. Regier  
02:08:28 Rep. More

02:09:29 **Vote:** Motion carried 11-9 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson, Rep. Regier, Rep. Sands and Rep. Warburton voting no.

02:10:42 **Motion:** Rep. Howard moved that **HB 412 DO PASS AS AMENDED.**

**Discussion:**

02:10:54 Rep. MacDonald  
02:11:13 Chairman Peterson  
02:11:55 Rep. MacDonald  
02:13:31 Rep. Wagner  
02:14:43 Rep. Harris  
02:16:19 Rep. More  
02:17:27 Rep. Sands  
02:17:47 Chairman Peterson  
02:17:57 Rep. Sands  
02:18:13 Chairman Peterson  
02:18:20 Rep. Sands  
02:18:29 Rep. Hansen exited.  
02:18:31 Chairman Peterson  
02:18:47 Rep. Sands

02:19:15 **Vote:** Motion carried 14-6 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no. Rep. Hansen voted by proxy.

#### **EXECUTIVE ACTION ON HB 438**

02:20:49 **Motion:** Rep. Kerns moved that **HB 438 DO PASS.**

02:20:59 **Motion:** **Motion:** Rep. Hansen moved that **HB 438 BE AMENDED.**  
[EXHIBIT\(juh37a05\)](#)

#### **Discussion:**

02:22:21 Rep. Sands

02:23:47 Rep. Hill

02:24:48 Rep. Harris

02:24:51 **Vote:** Motion carried 16-4 by roll call vote with Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

02:25:54 **Motion:** Rep. Kerns moved that **HB 438 DO PASS AS AMENDED.**

#### **Discussion:**

02:26:34 Rep. Hansen

02:27:10 Chairman Peterson

02:27:17 Rep. Menahan

02:27:21 Rep. Harris

02:27:28 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

#### **EXECUTIVE ACTION ON HB 490**

02:28:37 **Motion:** Rep. Hill moved that **HB 490 DO PASS.**

#### **Discussion:**

02:29:32 Rep. Sands

02:30:22 Rep. O'Hara exited.

02:30:35 Rep. Warburton

02:30:54 Rep. Sands

02:31:07 Rep. MacDonald

02:33:25 Rep. Pease-Lopez

02:33:57 **Vote:** Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan and Rep. Sands voting no. Rep. O'Hara voted by proxy.

**EXECUTIVE ACTION ON HB 492**

02:35:10 **Motion:** Rep. Kerns moved that **HB 492 DO PASS.**

**Discussion:**

02:35:45 Rep. Howard  
02:26:02 Rep. O'Hara returned.  
02:36:31 Rep. Sands  
02:37:15 Rep. Pease-Lopez  
02:38:03 Rep. Howard  
02:38:50 Rep. Pease-Lopez  
02:39:27 Rep. Loney

02:39:57 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

**EXECUTIVE ACTION ON HB 480**

02:41:22 **Motion:** Rep. Kerns moved that **HB 480 DO PASS.**

02:41:29 **Motion:** Rep. Menahan moved that **HB 480 BE AMENDED.**

**Discussion:**

02:42:37 Rep. Kerns  
02:42:43 Rep. Peterson

02:43:17 **Vote:** Motion carried unanimously by voice vote.

02:43:30 **Motion:** Rep. Kerns moved that **HB 480 DO PASS AS AMENDED.**

**Discussion:**

02:43:43 Rep. Wagner  
02:44:26 Chairman Peterson  
02:44:45 Rep. Menahan  
02:44:57 Chairman Peterson  
02:45:25 Rep. Wagner  
02:45:29 Chairman Peterson

02:45:35 **Vote:** Motion carried 17-3 by roll call vote with Rep. Hill, Rep. More and Rep. Wagner voting no.

**EXECUTIVE ACTION ON HB 442**

02:46:37 **Motion:** Rep. Kerns moved that **HB 442 DO PASS.**

**Discussion:**

02:46:54 Rep. Kerns  
02:47:08 Rep. Hansen  
02:47:49 Rep Howard

02:48:01 **Vote:** Motion failed 6-14 by roll call vote with Rep. Driscoll, Rep. MacDonald, Rep. O'Hara, Rep. Pease-Lopez, Rep. Peterson and Rep. Regier voting aye.

02:49:01 **Motion/Vote:** Rep. Kerns moved that **HB 442 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 382**

02:49:14 **Motion:** Rep. Kerns moved that **HB 382 BE REMOVED FROM TABLED**.

02:49:34 Chairman Peterson

02:49:56 **Vote:** Motion failed 10-10 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Kerns, Rep. Loney, Rep. More, Rep. Read, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

**EXECUTIVE ACTION ON HB 274**

02:51:32 **Motion:** Rep. Howard moved that **HB 274 BE REMOVED FROM TABLED**.

**Discussion:**

02:51:47 Rep. Howard  
02:52:15 Rep. Sands  
02:53:05 Mr. Niss  
02:53:51 Rep. Howard withdrew his motion.  
02:54:08 Rep. Hansen  
02:54:18 Chairman Peterson

**EXECUTIVE ACTION ON HB 321**

02:55:18 **Motion:** Rep. Kerns moved that **HB 321 DO PASS**.

**Discussion:**

02:56:16 Rep. Kerns  
02:56:45 Rep. Hansen  
02:57:04 Rep. Menahan exited.  
02:57:10 Rep. Read  
02:57:46 Rep. Sands  
02:58:28 Rep. Kerns  
02:58:51 Rep. Harris  
02:59:53 Rep. Menahan returned.  
02:59:58 Rep. Howard

03:00:29 Rep. Loney  
03:01:04 Rep. More  
03:03:44 Rep. Driscoll  
03:04:20 Chairman Peterson  
03:05:12 Rep. Skattum

03:05:57 **Vote:** Motion carried 13-7 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

**ADJOURNMENT**

03:07:03      Adjournment:

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Karen Armstrong, Secretary

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Additional Exhibits  
**[EXHIBIT\(juh37a06\)](#)**

Additional Documents:

**[EXHIBIT\(juh37aad.pdf\)](#)**